

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
SOUTHERN DIVISION

UNITED STATES OF AMERICA)
)
v.) CR CASE NO: 1:08cr68-WC
)
BRITTANY M. LEE)

ORDER ON MOTION

On August 20, 2008, Defendant filed an unopposed Motion to Continue (Doc. #18). While the granting of a continuance is left to the sound discretion of the trial judge, *United States v. Warren*, 772 F.2d 827, 837 (11th Cir. 1985), the Court is, of course, limited by the requirements of the Speedy Trial Act, 18 U.S.C. § 3161. The Speedy Trial Act provides generally that the trial of a defendant in a criminal case shall commence within 70 days of the latter of the filing date of the indictment or the date the defendant appeared before a judicial officer in such matter. 18 U.S.C. §3161(c)(1). *See United States v. Vasser*, 916 F.2d 624 (11th Cir. 1990). The Act excludes from this 70 day period any continuance that the judge grants “on the basis of his findings that the ends of justice served by taking such action outweigh the best interest of the public and the defendant in a speedy trial.” 18 U.S.C. § 3161(h)(8)(A).

The Motion states Defendant has applied for pretrial diversion. Consequently, the Court concludes that a continuance of this case is warranted and that the ends of justice served by continuing this case outweighs the best interest of the public and the defendant in a speedy trial. Accordingly, it is

ORDERED that the Defendant's Motion to Continue Trial (Doc. #18) is GRANTED. Jury selection currently set for November 3, 2008, is reset before United States District Judge Myron H. Thompson in Dothan, AL on at 10:00a.m., with trial to begin there after before the undersigned. Any requested voir dire questions and jury instructions are to be filed not later than one week before jury selection. Counsel for the parties shall file a joint status report by September 22, 2008.

DONE this 20th day of August, 2008.

/s/ Wallace Capel, Jr.
WALLACE CAPEL, JR.
UNITED STATES MAGISTRATE JUDGE